

THE HONORABLE RICARDO MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KENNETH FLEMING, JOHN DOE, R.K. and
T.D.,

Plaintiffs,

vs.

THE CORPORATION OF THE PRESIDENT
OF THE CHURCH OF JESUS CHRIST OF
LATTER-DAY SAINTS, a Utah corporation
sole, a/d/a "MORMON CHURCH,"; LDS
SOCIAL SERVICES a/d/a LDA FAMILY
SERVICES, a Utah corporation,

Defendants.

NO. C04-2338RSM

**DECLARATION OF MICHAEL T.
PFAU RE: PLAINTIFF'S MOTIONS IN
LIMINE**

**NOTE ON MOTION CALENDAR:
SEPTEMBER 15, 2006**

ORAL ARGUMENT REQUESTED

I, MICHAEL T. PFAU, declare, under penalty of perjury, as follows:

1. I am one of the attorneys for plaintiff R.K. in this matter; I make this declaration based on my own personal knowledge.

2. Attached hereto as **Exhibit A** is a true copy of pages 33 and 34 from the perpetuation deposition of Souhir Ben Hamida, Ph.D.

3. Attached hereto as **Exhibit B** is a true copy of page 15 from the deposition of plaintiff R.K.

PFAU DECL. RE: PLTF'S MTNS IN LIMINE - 1 -
(C04-2338RSM)
[169534 v1.doc]

LAW OFFICES
GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP
ONE UNION SQUARE
600 UNIVERSITY, SUITE 2100
SEATTLE, WASHINGTON 98101-4185
(206) 676-7500 - FACSIMILE (206) 676-7575

1 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE
2 STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.
3

4 DATED at Seattle, Washington, this 5 day of September, 2006.
5

6 
7 _____
8 MICHAEL T. PFAU
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

CERTIFICATE OF SERVICE

I, hereby certify that on September 5, 2006, I electronically filed the foregoing
DECLARATION OF MICHAEL T. PFAU RE: PLAINTIFF'S MOTIONS IN LIMINE
with the Clerk of the Court using the CM/ECF system which will send notification of such
filing to the following:

Charles C. Gordon Jeffrey I. Tilden GORDON MURRAY TILDEN LLP 1001 Fourth Avenue, Suite 4000 Seattle, WA 98154 Ph.: 206.467.6477 Fx.: 206.467.6292	
---	--

/s/ Michelle Menely

Byers & Anderson, Inc.
Court Reporters & Video

Page 33

EXAMINATION

BY MS. MENELY:

Q First, you saw Robert one time about five years ago, correct?

A Yes.

Q And you don't have any personal recall of him?

A I remember him vaguely, but I don't -- I don't have a very clear recollection. I probably -- might recognize him if I bumped into him on street.

Q Your testimony today has been based on your review of your records and not your independent recall, correct?

A Right.

Q You -- would you -- are you aware that Dr. Worland White has opined that you did not perform a full examination on Robert Kelly?

MR. GORDON: Objection. Go ahead.

THE WITNESS: Yes.

Q (By Ms. Menely) Do you agree with that opinion?

A Yes. I only performed a brief psychological testing report.

Q Are you also aware that Dr. White believes that testing alone is not meaningful without an appropriate interview and collateral contact?

MR. GORDON: Objection to the form.

Go ahead.

EXHIBIT A - Pgs 5

Souhir Benhamida, PhD
August 25, 2006

Byers & Anderson, Inc.
Court Reporters & Video

Page 34

1 THE WITNESS: I did interview
2 Mr. Kelly, but only to interpret the testing. I
3 explicitly say that I do not have the appropriate data
4 to offer any recommendations.

5 Q (By Ms. Menely) And you did not perform any
6 collateral -- engage in collateral contact?

7 A No.

8 Q And that's contacting other people, correct?

9 A Right. I usually will do that in more comprehensive
10 evaluations.

11 Q You testified a little bit earlier that Robert's test
12 results and your interpretations of those results
13 indicated that Robert is stressed somatically.

14 That's physically, correct?

15 A Yes.

16 Q And that he does not have a lot of insight into his
17 psychological problems?

18 A Correct.

19 Q So if he denies depression and anxiety, that could be
20 because he doesn't have any insight into his
21 psychological problems?

22 MR. GORDON: Objection; form.

23 THE WITNESS: The kind of
24 personality profile that he has suggests that he's the
25 type of person to experience stress, mostly physically

Souhir Benhamida, PhD
August 25, 2006

EXHIBIT A - pg 6

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KENNETH FLEMING and JOHN DOE,)	
)	
Plaintiffs,)	
)	
vs.)	NO. 04-2338 RSM
)	
THE CORPORATION OF THE PRESIDENT OF THE)	
CHURCH OF JESUS CHRIST OF LATTER-DAY)	
SAINTS, a Utah corporation sole, a/k/a)	
"MORMON CHURCH"; LDS SOCIAL SERVICES)	
a/k/a LDS FAMILY SERVICES, a Utah)	
corporation,)	
)	
Defendant.)	

DEPOSITION UPON ORAL EXAMINATION OF
ROBERT KELLY
VIDEOTAPED PROCEEDING

1:10 o'clock p.m.
August 29, 2005
601 Union Street
Suite 3100
Seattle, Washington

REPORTED BY:
ALISON LOTT, CCR#2337

EXHIBIT B - pg 7

1 has never obtained treatment for it." Again, do you
2 remember telling him that that was about the age that you
3 were molested?

4 A I don't recall that conversation. I mean, the specific
5 dates that were discussed. I remember meeting with
6 Dr. Wight, but I don't recall the specific dates that I
7 mentioned to him.

8 Q Well, both of these mention you being six years of age. Do
9 you think it was older now, than being six, when this first
10 happened?

11 A Since I met with Dr. Wight, I had a chance to more
12 critically reflect on the dates and now I think it was at
13 an older age.

14 Q So you think it's between nine and twelve now?

15 A That's correct.

16 Q What made you change your mind?

17 A Well, I reflectively thought that -- I know I wasn't abused
18 when I -- I transferred to a private grade school when I
19 was midway through my sixth year grade, and I know I wasn't
20 abused at that point on and afterwards. It happened before
21 then. And it happened sometime during the point when Jack
22 moved into the home. And I didn't -- when I met with
23 Dr. Wight and Keith Waterland, I didn't connect those two.
24 Q Now, did you and one of the Allenbach children both go to a
25 different private school in the sixth grade?

EXHIBIT B - Pg 8